

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**EQT PRODUCTION COMPANY,**

**Plaintiff,**

**v.**

**Civil Action No. 1:18-cv-72  
(Judge Keeley)**

**AUSTIN CAPERTON,  
in his official capacity as  
Secretary of the West Virginia Department  
of Environmental Protection,**

**Defendant.**

**SECRETARY CAPERTON'S MOTION TO DISMISS**

Defendant Austin Caperton, in his official capacity as Secretary of the West Virginia Department of Environmental Protection, respectfully moves this Court to dismiss all of Plaintiff's claims pursuant to Federal Rule of Civil Procedure 12(b)(6) for reasons set forth in the accompanying memorandum in support.

Respectfully Submitted,

**AUSTIN CAPERTON, in his official capacity,**

By Counsel:

/s/ Benjamin L. Bailey

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**CERTIFICATE OF SERVICE**

I, Benjamin L. Bailey, do hereby certify that on May 31, 2018, I electronically filed the foregoing **“Secretary Caperton’s Motion to Dismiss”** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

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